

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

FERNANDO MUNIZ,	§	
Institutional ID No. 28217-050,	§	
	§	
Plaintiff,	§	
	§	CIVIL ACTION NO.
v.	§	5:12-CV-00156-C
	§	
GILES W. DALBY CORRECTIONAL	§	
FACILITY, <i>et al.</i> ,	§	
	§	
Defendants.	§	ECF

ORDER

Plaintiff Fernando Muniz, acting *pro se*, filed a civil rights complaint pursuant to 42 U.S.C. § 1983, which was transferred to the United States Magistrate Judge for judicial screening pursuant to 28 U.S.C. § 1915. By Order dated October 30, 2012, the Magistrate Judge ordered Muniz to complete a questionnaire within thirty (30) days from the date of the Order. *See Green v. McKaskle*, 788 F.2d 1116, 1120 (5th Cir. 1986) (holding that a prisoner may be required to supplement his § 1983 complaint with answers to a questionnaire).

By Orders dated December 12, 2012, the Magistrate Judge noted that Muniz had failed to complete the questionnaire, recommended that the complaint be dismissed for want of prosecution, and transferred the complaint back to this Court's docket.

Muniz timely filed objections to the Magistrate Judge's recommendation that his complaint be dismissed for want of prosecution. He stated that he had timely and correctly forwarded the questionnaire to the court clerk but "believe[d] that his institutional mail service" had held his questionnaire.

By Order dated May 2, 2013, this Court ordered Muniz to complete a questionnaire within thirty (30) days from the date of the Order. Muniz was specifically admonished that his failure to complete and return the questionnaire would result in the dismissal of his complaint for want of prosecution. As of this date, Muniz has failed to complete and return the questionnaire.

On May 24, 2013, Muniz filed a packet of papers which contained copies of prison grievances and a few pages of prison medical records. Even though Muniz filed a letter addressed to the Clerk and this Court on August 16, 2013, in which he alleged that he filed his answers on May 24, 2013, this Court has reviewed the packet and finds that Muniz clearly did not file his answers to the questionnaire. Moreover, the Court finds that the tone of Muniz's letter is disrespectful and the threat "to take further legal action" contained in the letter borders on contempt. Muniz did not explain why he had failed to file his answers to the Magistrate Judge's questionnaire or this Court's questionnaire. Because Muniz has failed to file his answers to the questionnaires or show good cause why his complaint should not be dismissed for want of prosecution, as of this date, the Court finds that Plaintiff's complaint should be dismissed without prejudice for want of prosecution.

SO ORDERED.

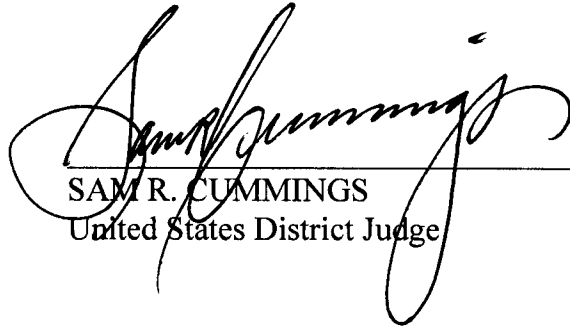
Judgment shall be entered accordingly.

All pending motions are hereby denied.

The dismissal of Muniz's complaint does not release him or the institution where he is incarcerated from the obligation to pay any filing fee previously imposed.

Muniz is advised that if he appeals this Order, he will be required to pay the appeal fee of \$455.00 pursuant to the PLRA, and he must submit an application to proceed *in forma pauperis* and a 6-month Certificate of Inmate Trust Account at the same time he files his notice of appeal.

Dated August 22, 2013.



SAM R. CUMMINGS
United States District Judge